United Nations CRPD/C/SRB/CO/1

Convention on the Rights of Persons with Disabilities

Distr.: General
23 May 2016

Original: English

Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Serbia*

I. Introduction

1. The Committee considered the initial report of Serbia (CRPD/C/SRB/1) at its 244th and 245th meetings (see CRPD/C/SR.244 and 245), held on 5 and 6 April 2016. It adopted the following concluding observations at its 267th meeting, held on 21 April 2016.

2. The Committee welcomes the initial report of Serbia, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/SRB/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/SRB/Q/1).

3. The Committee appreciates the fruitful dialogue held with the State party's delegation and commends the State party for the strength of its delegation, which included many representatives of relevant Government ministries.

II. Positive aspects

4. The Committee commends the State party on a number of its achievements, notably its Strategy of prevention and protection from discrimination (2013) and Action Plan (2014-2018). The Committee also commends the State party for its National Strategy for Improving the Position of Women and Promoting Gender Equality (2010-2015), cooperation with the European Institute for Gender Equality, declaring 2016 the year against violence against women and introducing a gender equality index. The Committee welcomes the recognition of the right to use sign language in procedures before State authorities through the adoption of the Law on the Use of Sign Language, in April 2015; the amendment to the Law on the Prevention of Discrimination against Persons with Disabilities guaranteeing the right of persons with disabilities, especially persons who are blind or vision-impaired, to use personal facsimile stamps to sign legal documents, in February 2016; and the adoption of the Guide Dog Assistance Law in March 2015 which recognizes the right to use guide dogs in public transports and facilities. The Committee further welcomes the inclusion of questions on persons with disabilities in the census form, which is a prerequisite for having relevant data in the future, and notes the decreasing

* Adopted by the Committee at its fifteenth session (29 March-21 April 2016).

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number of persons deprived of their legal capacity and the efforts in making prisons accessible.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1-4)

5. The Committee is concerned that some legislative provisions and by-laws are discriminatory and contravene the provisions of the Convention.

6. **The Committee recommends that the State party review its legislation, including by assessing disability and support schemes, and harmonize it with the Convention, including the human rights model of disability.**

7. The Committee is concerned about the insufficient training of professionals and staff working with persons with disabilities in the rights recognized in the Convention.

8. **The Committee recommends that the State party promote, in consultation with organizations of persons with disabilities, the training of professionals and staff working with persons with disabilities in the rights recognized in the Convention in order that they may better provide the assistance and services guaranteed by those rights.**

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

9. The Committee is concerned that anti-discrimination legislation is not systematically applied, that legislation lacks a clear definition of disability-based discrimination and does not address all forms of discrimination. It is further concerned that neither the concept of reasonable accommodation nor recognition that the denial of such accommodation is a form of discrimination are explicitly included in anti-discrimination laws. The Committee also expresses its concern that little information has been provided on sanctions available for contravening the rights of persons with disabilities.

10. **The Committee recommends that the State party review its legislative framework to incorporate a definition of disability-based discrimination that explicitly deals with all forms of discrimination and the concept of reasonable accommodation and ensure that the relevant laws and regulations define the denial of reasonable accommodation as a form of discrimination on grounds of disability. The Committee also recommends that the State party introduce effective and proportional remedies, including dissuasive penalties.**

Women with disabilities (art. 6)

11. The Committee is concerned at the lack of specific actions implemented by the State party to prevent and combat the multiple and intersectional discrimination that women and girls with disabilities face, particularly in access to justice, protection against violence and abuse, education, health and employment. It is also concerned at the lack of sufficient or transparent funding and employment-related measures tailored to the needs of women with disabilities, and that women with disabilities are not consulted in the design of programmes and measures aimed at women in general or at persons with disabilities.

12. **The Committee recommends that the State party:**

(a) **Incorporate the perspective of women and girls with disabilities into its gender equality policies, programmes and strategies and the gender perspective into its strategies on disability, to eradicate multiple and intersectional discrimination in all areas of life;**

(b) **Take appropriate measures to prevent and combat the multiple and intersectional discrimination that women and girls with disabilities face, particularly in access to justice, protection against violence and abuse, education, health and employment;**

(c) **Ensure consultation with women and girls with disabilities, through their representative organizations, on the design, implementation and evaluation of programmes and measures in all matters that affect them directly;**

(d) **Provide sufficient resources for the improvement of the status and the employment of women with disabilities, and the promotion of gender equality-related programmes.**

Children with disabilities (art. 7)

13. The Committee is deeply concerned about the number of children with disabilities living in institutions, especially those with intellectual disabilities; that they constitute nearly 80 per cent of children in institutions; and that information indicates that children with disabilities continue to be placed in institutions. The Committee is equally concerned that, despite the legal prohibition on placing infants under the age of 3 in institutions, infants with disabilities continue to be placed in institutions directly from maternity wards. It is further concerned that, despite efforts to develop foster care, the level of day care, home assistance services, housing support and counselling and therapy available within the framework of community-based services for families with children with disabilities in the State party remains insufficient. The State party also seems to have failed to develop efficient, sustainable and quality community-based care services of the same standard at local level.

14. **The Committee urges the State party to strengthen its efforts to deinstitutionalize children, in particular those with intellectual and/or psychosocial disabilities, prevent any new institutionalization of infants under the age of 3 and ensure a more efficient transition for boys and girls moving from institutions into families. In the interim period, it recommends that the State party provide children with disabilities with sufficient early childhood intervention and development services, initiate education programmes for the staff in institutions and develop efficient community-based care services for those leaving institutions.**

Awareness-raising (art. 8)

15. The Committee is concerned that there is no established practice to raise awareness of persons with disabilities, particularly in mainstream schools, and that there is no mechanism to combat compounded harmful stereotypes and widespread discrimination.

16. **The Committee encourages the State party to implement awareness-raising campaigns, with the involvement of persons with disabilities and their representative organizations, and actively promote a positive image of persons with disabilities by focusing on their skills and talents. Those campaigns should target the general population, public officials and the private sector, as well as educational institutions, in accessible formats.**

Accessibility (art. 9)

17. The Committee is concerned about the lack of a national accessibility strategy or legislation with effective sanctions for non-compliance and about the low degree of accessibility of public buildings, institutions and services, and electronic mass media services in the State party.

18. **The Committee recommends that the State party develop a comprehensive accessibility plan, and ensure efficient monitoring of that plan, and a roadmap that sets benchmarks for the removal of barriers; and that it promote universal design for all buildings, public services and public transport, and accessible information and social communication media, paying special attention to electronic media, in accordance with general comment No. 2 (2014) on accessibility (art. 9). In that regard, the Committee recommends that the State party allocate sufficient resources to monitoring the implementation of accessibility standards, with the support of an updated national database throughout its territory; establish enforceable, effective and dissuasive sanctions for non-compliance; that it increase the use of subtitling and sign language interpretation in the media; and that it involve organizations of persons with disabilities in the process. The Committee also recommends the State party pay attention to the links between article 9 of the Convention and targets 11.2 and 11.7 of the Sustainable Development Goals.**

Situations of risk and humanitarian emergencies (art. 11)

19. The Committee is concerned at the lack of a general strategy, plan, protocols and tools to protect and assist persons with disabilities in situations of risk and humanitarian emergencies. It is especially concerned about the lack of accessibility of evacuation plans and subsequent reconstruction plans, and lack of equal access to information, particularly with regard to mass media. Manuals for emergency situations are not available in accessible formats.

20. **The Committee encourages the State party to adopt fully accessible and comprehensive emergency strategy, protocols and accessible informative services (e.g. hotlines, a text message-warning application, manuals in sign language and Braille) adequately tackling the requirements of persons with disabilities, in particular if they need to be evacuated. Additional measures should be taken in relation to information provided via mass media to ensure that deaf and hard-of-hearing persons have access to it and in relation to the implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030. The needs of persons with disabilities should also be considered in the planning and implementation of reconstruction programmes, taking into account accessibility standards and universal design.**

Equal recognition before the law (art. 12)

21. The Committee is concerned about the incapacity and guardianship regime, which contravenes the Convention and the Committee's general comment No. 1. (2014) on equal recognition before the law. It is concerned by the lack of transparent and effective safeguards and remedies. The Committee is especially concerned by the denial of the rights to marry and vote.

22. **The Committee recommends that the State party harmonize its legislation with the Convention, with a view to replacing substituted decision-making with supported decision-making regimes that respect the person's autonomy, will and preferences, and establish transparent safeguards. The Committee also recommends that the State party provide training, in consultation with and with the involvement of persons with disabilities, their representative organizations and the Ombudsman, at the national,**

regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on good practices in supported decision-making.

Access to justice (art. 13)

23. The Committee is concerned about the lack of information on specific measures and protocols to provide procedural, gender and age-appropriate accommodation in judicial proceedings, including the provision of sign-language interpretation for deaf persons and accessible formats for communication for deaf-blind persons, persons with intellectual disabilities and persons with psychosocial disabilities, particularly in civil cases. The Committee is also concerned that women with disabilities are not protected against sexual violence on an equal basis with others under articles 178 and 179 of the Criminal Code.

24. **The Committee recommends that the State party take further steps to ensure barrier-free and non-discriminatory access to justice through the provision of procedural and age-appropriate accommodation based on the free choice and preference of persons with disabilities and establish related safeguards. The Committee recommends that the State party adopt measures to provide deaf persons with access to civil proceedings on an equal basis with others. The Committee recommends that the State party review its Criminal Code to ensure that procedures, sanctions and reparations for victims with disabilities are harmonized with the Convention.**

Liberty and security of the person (art. 14)

25. The Committee is concerned that the Law on the Protection of Persons with Mental Disabilities permits the deprivation of liberty on the basis of impairment and provides for involuntary hospitalization and forced institutionalization of children and adults with intellectual and/or psychosocial disabilities.

26. **The Committee urges the State party to repeal laws, including the Law on the Protection of Persons with Mental Disabilities, and prohibit impairment-based detention of children and adults with disabilities, including involuntary hospitalization and forced institutionalization, and ensure that all relevant legislation and policies in that area are in accordance with the Convention as interpreted in the Committee's guidelines on article 14. It should also accelerate deinstitutionalization, in consultation with organizations of persons with disabilities, and the development of support services in the community.**

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

27. The Committee is concerned that, despite reports and recommendations by the national prevention mechanism for the prevention of torture, there are reports of the use of coercive measures, including physical and chemical restraints, and excessive antipsychotic therapy, and the prolonged isolation of adults and children with psychosocial and/or intellectual disabilities, considered as cruel, inhuman or degrading treatment.

28. **The Committee urges the State party to prohibit, as recommended by the national preventive mechanism against torture, all forms of coercive treatments against adults and children with disabilities, including physical and chemical restraints, excessive antipsychotic therapy and isolation, which are considered to be cruel, inhuman or degrading treatment. It calls upon the State party to initiate administrative and criminal investigations on the reported cases of such treatment in order to establish the respective responsibilities.**

Freedom from exploitation, violence and abuse (art. 16)

29. The Committee is concerned about the lack of effective measures to prevent violence against persons with disabilities, especially women with disabilities, and sexual violence against children with disabilities in all settings, and the lack of mechanisms for making complaints against perpetrators and legal remedies.

30. **The Committee recommends that the State party ensure the availability and accessibility of effective independent monitoring mechanism and a transparent complaint procedure, and develop training programmes for the prevention of violence and abuse against persons with disabilities.**

31. The Committee is concerned at reports of very poor living conditions in institutions. It is particularly disturbed at reports of cases of abuse and neglect of persons with disabilities, especially children with disabilities in institutions, lack of contact and social interaction with other children and their own families.

32. **The Committee recommends that the State party protect adults and children with disabilities in all institutional settings from violence, abuse and ill-treatment of any kind.**

Protecting the integrity of the person (art. 17)

33. The Committee is concerned that a legal guardian can authorize medical interventions, including sterilization, without the free and informed consent of the person with disabilities.

34. **The Committee recommends that the State party prohibit medical interventions without the prior consent of persons with disabilities and provide sufficient remedies and compensation to those subjected to such procedures.**

35. The Committee is deeply concerned at reports indicating regular use of physical restraint, isolation and excessive antipsychotic therapy, including for children.

36. **The Committee recommends that the State party investigate all cases of forced interventions without the free and informed consent of the person, provide protection and redress mechanisms and apply sanctions already available.**

37. The Committee is concerned that persons with disabilities, especially those who have been declared legally incapacitated, are still subject against their will to contraceptive treatments, abortion, sterilization, scientific research, electroconvulsive therapy and psychosurgical interventions.

38. **The Committee recommends that the State party take all the necessary measures to guarantee the right to free, prior and informed consent to any kind of treatment that may affect a person with a disability, regardless of her/his legal capacity. It also recommends that support for decision-making regimes for persons with disabilities are provided when necessary.**

Living independently and being included in the community (art. 19)

39. The Committee is concerned about the lack of a comprehensive strategy of deinstitutionalization in the State party, that the number of institutionalized persons with disabilities remains high and that insufficient efforts have been made to provide resources for the development of support services, personal assistance services in particular, in local communities for those leaving institutions. The Committee is also concerned that resources are still invested in renovating or extending institutions, while a lot of barriers for initiatives by organizations of persons with disabilities, including an overcomplicated licensing process, still persist.

40. **The Committee urges the State party to adopt a comprehensive strategy and measures for effective deinstitutionalization. It recommends that the State party ensure that no investment is made for new institutions and that it allocate resources to enable all persons with disabilities to live independently and to have support in the community based on their own choice and preference. It also recommends removing barriers with a view to greater participation of organizations of persons with disabilities in the development of community-based services, especially at the level of municipalities.**

Personal mobility (art. 20)

41. The Committee is concerned that the availability of driving lessons and exams that use sign language is still limited and that medical assessments of persons who are deaf or hard of hearing for driving courses is not transparently standardized and applied. The Committee is also concerned that, despite the recent adoption of the Guide Dog Assistance Law (2015), there is a lack of trained guide dogs for blind or vision-impaired persons and insufficient training centres for guide dogs.

42. **The Committee urges the State party to adopt universally applied measures and harmonize the holding of courses for the deaf and hard of hearing persons using sign language, and prevent them from being denied driving licences on the basis of their impairment. It recommends the State party increase its efforts to improve access to trained guide dogs for blind or vision-impaired persons.**

Freedom of expression and opinion, and access to information (art. 21)

43. The Committee is concerned that a national Braille authority has not been established yet in Serbia to guarantee the existence of a standardized unified Braille code, needed to comprehensively enhance the use of Braille in education, employment and applications of information and communications technology.

44. **The Committee recommends that the State party take the necessary steps to establish the Serbian national Braille authority and ensure the creation of a standardized Serbian Braille code.**

Respect for home and the family (art. 23)

45. The Committee is deeply concerned that women with disabilities, especially those with psychosocial and intellectual disabilities, are separated from their children on the grounds of their disability

46. **The Committee urges the State party to review the procedures by which women with disabilities are declared unfit mothers on the basis of disability and fully restore their rights to have a home and found a family, ensuring that they have the support necessary to make these rights effective.**

Education (art. 24)

47. The Committee is concerned that more than half of the children living in residential care institutions are not in education and that few measures have been adopted to provide standardized and regulated transparent protocols relating to individual education plans, as well as relevant technologies and forms of communication ensuring accessibility for pupils and students with disabilities at all levels of education.

48. **The Committee urges the State party to identify concrete targets in the Action Plan for Inclusive Education (2016-2020), to meet inclusive education standards and requirements. Special attention should be given to children with multiple disabilities**

and pupils and students with disabilities living in institutions, as well as to the development of individual education plans and accommodation of all types of disabilities.

49. The Committee is concerned about the lack of comparable data on funding earmarked for children with disabilities in mainstream and special education, as well as on affirmative measures for the enrolment of and accommodation provided for students with disabilities. In addition, the Committee is also concerned about the low level of accessibility provided in higher education for students with disabilities.

50. **The Committee recommends that the State party take immediate steps to ensure that all persons with disabilities have access to inclusive and quality primary, secondary and tertiary education and that reasonable accommodation, in accordance with established individual education plans, is provided in mainstream education. It recommends that teachers and other education professionals receive training on inclusive education and that all secondary and tertiary education facilities be made accessible. The Committee stresses that denial of reasonable accommodation constitutes discrimination. The Committee also recommends that the State party pay attention to the links between article 24 of the Convention and targets 4.5 and 4 (a) of the Sustainable Development Goals.**

Health (art. 25)

51. The Committee is concerned at the lack of early identification of and intervention for children with disabilities. It is also concerned about the limited access to health services for persons with disabilities in the State party, particularly access to sexual and reproductive health. It is also concerned about the lack of adequate training of health professionals in caring for persons with disabilities and the inaccessibility of medical services and health facilities.

52. **The Committee recommends that the State party provide health-care personnel with adequate training and the competencies required and that it expedite the implementation of the national programme for enhanced early childhood development. It also recommends that the State party ensure access to health, on an equal basis with others, of all persons with disabilities, including access to sexual and reproductive health. It further recommends that health professionals be trained on providing attention to persons with disabilities and that medical services and health facilities be made accessible.**

Work and employment (art. 27)

53. The Committee is concerned about the insufficient legal protection of employees with disabilities against dismissal and the insufficient provision of reasonable accommodation. The Committee is also concerned that persons with disabilities cannot establish in practice a representative trade union in the open labour market owing to their low representation and that, despite the provision of multidisciplinary committees, assessment of working capacity continues to be based on a medical model of "incapacity".

54. **The Committee recommends that the State party review the practice of the application of law to make sure legislation is not disadvantageous for persons with disabilities in terms of employment and labour market participation, and guarantee the provision of reasonable accommodation in the workplace. It also recommends that the State party review the assessment of working capacity to eliminate the medicalized approach and to promote the inclusion of persons with disabilities in the open labour market. The Committee further recommends that persons with disabilities can exercise in practice their right to establish trade unions and that the State party pay**

attention to the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals.

55. The Committee is concerned that sheltered workshops for persons with disabilities persist and that the measures to promote the employment of persons with disabilities in the open labour market are not effective.

56. **The Committee recommends that the State party promote among employers the right to employment on an equal basis with others and strengthen measures to support the transition of all persons with disabilities who are currently in sheltered workshops into formal, open labour market employment, ensuring the respect of all rights, in accordance with the Convention.**

Adequate standard of living and social protection (art. 28)

57. The Committee is concerned at the lack of accessible social housing.

58. **The Committee recommends full implementation of the law guaranteeing a 10 per cent quota of accessible housing for persons with disabilities. It also recommends that the State party pay attention to the links between article 28 of the Convention and target 10.2 of the Sustainable Development Goals.**

Participation in political and public life (art. 29)

59. The Committee is concerned at the exclusion of persons with disabilities from public life, especially women with disabilities and Roma persons with disabilities.

60. **The Committee recommends that the State party increase its efforts to include persons with disabilities in positions of elected representation and public office. It also recommends that the State party ensure that upcoming elections are inclusive of and accessible to all persons with disabilities, including voting facilities and campaign materials.**

Participation in cultural life, recreation, leisure and sport (art. 30)

61. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which provides for access to published material by blind persons and persons with visual impairments or print disabilities.

62. **The Committee encourages the State party to take all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31-33)

Statistics and data collection (art. 31)

63. The Committee welcomes the fact that a comprehensive database on local services will be set up; however, the Committee is concerned that little information has been provided on how the database will contribute to the quality of services provided for persons with disabilities. The Committee is also concerned that the State party is not collecting and analysing data on the situation of persons with disabilities that provide sufficient information to implement the Convention.

64. **The Committee urges the State party to ensure that the database on services for persons with disabilities will refer to the quality and availability of social services provided for persons with disabilities and guarantee a speedy implementation of statistics in accordance with the Sustainable Development Goals. The Committee**

recommends that the State party update and collect data and statistics on persons with disabilities disaggregated by age, sex, type of impairment, ethnicity and geographic position, including the type of residential or institutional setting, cases filed for discrimination and/or for violence against these persons, and using a human rights-based approach. While developing those processes, it recommends that the State party meaningfully involve organizations of persons with disabilities. The Committee recommends that the State party pay attention to the links between article 31 of the Convention and target 17.18 of the Sustainable Development Goals.

International cooperation (art. 32)

65. The Committee is concerned about the lack of mainstreaming of disability rights as enshrined in the Convention in the national implementation and monitoring of the 2030 Agenda.

66. **The Committee recommends that disability rights, as laid down in the Convention, be mainstreamed in the national implementation and monitoring of the 2030 Agenda and the Sustainable Development Goals and that those processes are undertaken in close cooperation and involvement with organizations of persons with disabilities, with a transparent decision-making process and budget.**

National implementation and monitoring (art. 33)

67. The Committee is concerned there is no coordination mechanism as outlined in article 33 (1). In addition, the national human rights institution does not act as an independent mechanism as outlined in article 33 (2). The Committee is also concerned about the lack of information on the composition of the Council for Monitoring the implementation of United Nations Human Rights Mechanism Recommendations established in 2014 and the Council of the Government, and how and to what extent civil society takes part in those entities.

68. **The Committee recommends that the State party ensure that independent organizations of persons with disabilities are systematically involved in the process of monitoring the Convention, and provide them with efficient budgetary support for that purpose.**

IV. Follow-up

Cooperation and technical assistance

69. Under article 37 of the Convention, the Committee can provide technical guidance to the State party on any queries addressed to the experts via the secretariat. The State party can also seek technical assistance from United Nations specialized agencies with offices in the country or the region.

Follow-up and dissemination

70. The Committee requests that the State party provide information, within 12 months of the adoption of the present concluding observations and in accordance with article 35 (2) of the Convention, on the measures taken to implement the Committee's recommendations set out in paragraphs 34 (prohibition of medical interventions without the prior consent of persons with disabilities concerned) and 54 (the review of the application of law to make sure legislation is not disadvantageous for persons with disabilities).

71. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party

transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

72. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

73. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

Next periodic report

74. The Committee requests the State party to submit its combined second, third and fourth periodic reports by 31 August 2023 and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date for the report of a State party. The replies of a State party to such a list of issues constitute its report.